

10 DEC 15 P2:25



PROCUREMENT OFFICE
STATE OF HAWAII

STATE PROCUREMENT OFFICE NOTICE OF AND REQUEST FOR EXEMPTION FROM CHAPTER 103D, HRS

1. TO: Chief Procurement Officer
2. FROM: DLNR/DOFAW

Department/Division/Agency

Pursuant to §103D-102(b)(4), HRS, and Chapter 3-120, HAR, the Department requests a procurement exemption to purchase the following:

3. Description of goods, services or construction:
The Hawai'i Invasive Species Council (the Council or HISC) was established for the special purpose of providing policy level direction, coordination, and planning among state departments, federal agencies, and international and local initiatives for the control and eradication of harmful invasive species infestations throughout the State [of Hawaii] and for preventing the introduction of other invasive species that may be potentially harmful (HRS 194-2 (a)). For administrative purposes the Council, or HISC, was placed within the State of Hawai'i Department of Land and Natural Resources (HRS 194-3). The HISC's purpose and duties are outlined in statute and in the HISC Strategic Plan and are to be achieved via an interagency Council whose voting members include the chairpersons of the Department of Agriculture (HDOA), and the Department of Land and Natural Resources (DLNR). Voting members include the directors of the Departments of Health (DOH); Business, Economic Development and Tourism (DBEDT); Transportation (DOT); and the president of the University of Hawai'i (UH). The implementation of projects funded by the Council are carried out by member agencies that may, via agreement, work with collaborators in the public and private sectors.

4. Name of Vendor: TBD Address:	5. Price: \$various mx\$75,000/yr
6. Term of Contract: From: 1/1/11 <i>dlk</i> To: 12 months <i>dlk</i>	7. Prior Exemption Ref. No.

8. Explanation describing how procurement by competitive means is either not practicable or not advantageous to the State: Selecting projects/vendors in the four HISC program areas (Public Outreach, Prevention, Control and Eradication of Established Pests, and Research and Technology) is accomplished by mandated HISC Working Groups specializing in the four program areas with guidance from the DLNR/DOFAW HISC Coordinator and DLNR/DOFAW Invasive Species Project Manager and by mandated review and approval by the Council (chairpersons of HDOA, DLNR, DOH, DBEDT, DOT, and UH). Because the process implemented to select and approve invasive species projects by the HISC (described below in #9) incorporates the same procedures required by state procurement rules and is approved by the chairpersons of HDOA, DLNR, DOH, DBEDT, DOT, and UH, requiring additional procurement would not only be redundant with the Council's effort, but would also undermine this coordinated, collective decision and effort to addressing invasive species in the state.

9. Details of the process or procedures to be followed in selecting the vendor to ensure maximum fair and open competition as practicable:
Requests for proposals in the four program areas are solicited at least 14 days before the first Working Group meeting and posted with meeting announcements for each Working Group. These RFPs are posted according to Sunshine Laws, posted to the DLNR website and State of Hawaii calendar, and circulated via email and by multiple electronic listservs. Meetings where proposals are evaluated are open to the public and also posted via the Sunshine Laws and the other methods listed above. Proposal guidelines require the submission of three funding levels (low, medium, and high) with a description of activities and accomplishments associated with each level. Proposals are evaluated by each Working Group based on their application to Working Group and HISC goals, anticipated success, and appropriateness of the funds requested. A list of approved projects with recommended funding levels are then forwarded to the Council for review and approval, again, at a public meeting.

REQUEST FOR EXEMPTION FROM CHAPTER 103D, HRS (Cont.)

10. A description of the agency's internal controls and approval requirements for the exempted procurement:
 Project recommendations by the Working Groups are reviewed and approved by the Council, which is made up of chairpersons of HDOA, DLNR, DOH, DBEDT, DOT, and UH. But for administrative purposes, the HISC is placed within the State of Hawai'i Department of Land and Natural Resources. Contracts and project activities, progress, and reporting are tracked, reviewed, and compiled by the HISC Coordinator and Invasive Species Project Manager. The HISC Coordinator, Invasive Species Project Manager, and additional appropriate DOFAW staff ensure compliance with state laws, division and departmental goals and approaches, and HISC program requirements.

12. A list of agency personnel, by position, who will be involved in the approval process and administration of the contract:

Name	Position	Involvement in Process	
Vacant	HISC Coordinator	<input type="checkbox"/> Approval	<input checked="" type="checkbox"/> Administration
Christy Finlayson	Invasive Species Project Manager	<input type="checkbox"/> Approval	<input checked="" type="checkbox"/> Administration
Scott Fretz	Wildlife Program Manager	<input checked="" type="checkbox"/> Approval	<input type="checkbox"/> Administration
Paul Conry	Administrator, DOFAW	<input checked="" type="checkbox"/> Approval	<input type="checkbox"/> Administration
William J. Aila, Jr.	Chairperson, BLNR	<input checked="" type="checkbox"/> Approval	<input type="checkbox"/> Administration
		<input type="checkbox"/> Approval	<input type="checkbox"/> Administration

13. Direct inquiries to:

Department: DLNR/DOFAW
 Contact Name: Christy Finlayson
 Phone Number: 587-0164
 Fax Number: 587-0160

Agency shall ensure adherence to applicable administrative and statutory requirements

14. *I certify that the information provided above is, to the best of my knowledge, true and correct.*

Department Head

Date

Reserved for SPO Use Only

15. Date Notice Posted 12-16-10

The Chief Procurement Officer is in the process of reviewing this request for exemption from Chapter 103D, HRS. Submit written objections to this notice to issue an exemption from Chapter 103D, HRS, within seven calendar days or as otherwise allowed from the above posted date to:

Chief Procurement Officer
 State Procurement Office
 P.O. Box 119
 Honolulu, Hawaii 96810-0119

REQUEST FOR EXEMPTION FROM CHAPTER 103D, HRS (Cont.)

Chief Procurement Officer's comments:

SEE CPO COMMENTS ATTACHED AS PAGE 4.

16.



APPROVED



DISAPPROVED



NO ACTION REQUIRED

James S. Taylor 4/21/2011
Chief Procurement Officer Date

CPO COMMENTS:

Contracts for public outreach, prevention, control and eradication of established pests, and research and technology are subject to HRS Chapter 103D. Therefore, the following Hawaii Administrative Rules (HAR) are applicable during the Competitive Sealed Proposals method of procurement pursuant to HRS §103D-303:

HAR §3-122-9.01	A purchasing agency is not required to disclose information . . . until posting of the award . . .
HAR §3-122-51(a)(1)	Proposals and modifications shall not be opened publicly . . .
HAR §3-122-51(a)(2)	Proposals and modifications shall be shown only to members of the evaluation committee and state personnel or their designees having legitimate interest in them.
HAR §3-122-53(f)	The contents of any proposal shall not be disclosed so as to be available to competing offerors during the discussion process.
HAR §3-122-58(b)	. . . shall be available for public inspection upon posting of award . . .

The department has determined that responses to solicitations to meet their program are subject to HRS Chapter 92, which would allow the public to view proposals, make comment and have discussions about the proposals submitted which would conflict with the above HAR sections.

Due to this conflict and to allow disclosure for public review and input prior to award, a limited exemption is approved for the requested 12 months and exempts only those 5 HAR sections noted above. Requests for exemption amendments from HRS Chapter 103D may be submitted on form SPO 007B.

As a reminder, individual(s) participating in procurement activities must be in compliance with Procurement Delegation No. 2010-01 and Amendment 1, and Procurement Circular No. 2010-05, as appropriate.